



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/614,919	07/12/2000	Koichi Sakamoto	879-268P	2489

7590 09/20/2006

BIRCH, STEWART, KOLASCH & BIRCH, LLP
P.O. Box 747
Falls Church, VA 22040-0747

EXAMINER

AGGARWAL, YOGESH K

ART UNIT	PAPER NUMBER
----------	--------------

2622

DATE MAILED: 09/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/614,919	Applicant(s) SAKAMOTO ET AL.	
	Examiner Yogesh K. Aggarwal	Art Unit 2622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 and 16-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,2,23-31 and 34 is/are allowed.
- 6) ☒ Claim(s) 3-11,16-22 is/are rejected.
- 7) ☐ Claim(s) 32 and 33 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>06/27/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

Response to Arguments

1. Applicant's arguments with respect to claims 3-11, 16-22, 32 and 33 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claim 3 is rejected under 35 U.S.C. 102(e) as being anticipated by Peng (US Patent # 6,774,939).

[Claim 3]

In regards to claim 3 Peng discloses a recording and regenerating method of an electronic camera, comprising the steps of:

regenerating non-ambient sound in accordance with audio data which is recorded in a first recording medium (col. 7 lines 40-51, figure 3, audio recorder 130);

recording image data representing a subject in a second recording medium at image-capturing, and recording, in the second recording medium (memory 120), audio regeneration data together with the image capturing at the image capturing (col. 7 lines 37-40, col. 8 lines 18-45, figure 5);

regenerating an image in accordance with the image data recorded in the second recording medium, and regenerating the non-ambient sound in accordance with the audio regeneration data which is recorded together with the image data in the second recording medium (col. 8 lines 56-65).

wherein the audio regeneration data include information regarding a location of the non-ambient audio data within the first recording medium, and wherein the non-ambient audio data corresponds to the non-ambient sound regenerated at the image capturing (col. 8 lines 30-37).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3-11, 16-22, 32 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson (US Patent # 5,812,736) in view of Peng (US Patent # 6,774,939).

In regards to claim 3 Anderson discloses a recording and regenerating method of an electronic camera comprising the steps of:

recording image data representing a subject in a second record medium at image-capturing, and recording, in the second recording medium, audio regeneration data together with the image capturing at the image capturing (e.g., column 5, lines 41-51 and 55-58; Fig. 5);

regenerating an image in accordance with the image data recorded in the second recording medium, and regenerating the non-ambient sound in accordance with the audio regeneration data which is recorded together with the image data in the second recording medium, (e.g., column 6, lines 6-15; Fig. 6).

Anderson does not disclose that the audio data is regenerated in accordance with audio recorded in a first recording medium and that in regenerating an image it is regenerated in accordance with the audio data which is recorded in the first recording medium, wherein the

Art Unit: 2622

audio regeneration data include information regarding a location of the non-ambient audio data within the first recording medium, and wherein the non-ambient audio data corresponds to the non-ambient sound regenerated at the image capturing. Examiner notes that in Anderson's description it is implied that the audio is input through a microphone in order to capture ambient audio data (column 6, lines 16-37). Peng discloses a recording and regenerating method wherein regenerating non-ambient sound in accordance with audio data which is recorded in a first recording medium (col. 7 lines 40-51, figure 3, audio recorder 130) wherein the audio regeneration data include information regarding a location of the non-ambient audio data within the first recording medium, and wherein the non-ambient audio data corresponds to the non-ambient sound regenerated at the image capturing (col. 8 lines 30-37).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to have added an external audio input terminal in order to enable a user to alternatively supply non-ambient audio data through other audio input devices if necessary. As such, audio data is regenerated in accordance with the first recording medium and is stored in the second recording medium along with the image data and the audio regeneration data. Upon regeneration of the image, audio data is regenerated from the second recording medium in accordance with the audio data in the first recording medium, namely they are identical audio data.

In regards to claim 4 Anderson discloses the recording and regenerating method of the electronic camera as defined in claim 3, wherein:

the audio regeneration data includes an elapsed time period extending between a start point of the regenerating of the non-ambient sound and a point of the image-capturing (e.g., As see in Fig. 5 there is an elapsed time between the start of regenerating sound and a point of

image-capturing, namely 1.3 seconds, wherein that audio tag is the audio regeneration data; column 5, lines 20-58; Fig. 5); and

the regenerating of the non-ambient sound in accordance with the audio regeneration data starts from the start point of the elapsed time period (e.g., Anderson discloses that the regeneration of the sound starts at the beginning of the audio track wherein that is 1.3 seconds from the elapsed time; column 6, lines 6-15; Fig. 6).

In regards to claim 5 see Examiners notes on the rejection of claim 4. Note that the elapsed time is again 1.3 seconds for the first image, 3.8 seconds for the second image, and 4.9 seconds for the third image wherein, as described above, the audio regeneration starts at a predetermined time before the elapsed time, namely the audio starts 1.3 seconds before the first elapsed time, etc. Examiner notes that Anderson discloses that the regeneration of the image starts at the elapsed time (column 6, lines 6-15; Fig. 6).

In regards to claim 6 see Examiners notes on the rejection of claims 4 and 5. Note that the order of regeneration is implied in the Anderson reference in that as shown in Fig. 6 the images are reproduced in time order, namely the first image is displayed first, etc. As disclosed by Anderson the sound data inherently is time-based and therefore has a order of regeneration based on that time and is therefore regenerated based on that order of regeneration (column 5, lines 37-38).

In regards to claim 7 Anderson in view of Peng fails to teach wherein the first and second recording mediums are memory cards. However Official Notice is taken that the use of memory cards to store image and audio data is very well known to one skilled in the art in order to make the data easily transferable to other devices. Therefore taking the combined teachings of

Art Unit: 2622

Anderson and Peng, it would be obvious to one skilled in the art at the time of the invention to have been motivated to have used memory cards to store image and audio data in order to make the data easily transferable to other devices

In regards to claims 8-11 see Examiners notes on the rejections of claims 4-7.

In regards to claims 16-22 see Examiners notes on the rejections of claims 3-7 and 11 respectively.

Allowable Subject Matter

5. Claims 1, 2, 23-29, 30, 31 and 34 are allowed.

6. Regarding claim 1, the prior art fails to teach or suggest wherein when the subject image is captured, audio regeneration data are recorded in the recording medium together with the captured image data. wherein the audio regeneration data include information regarding a location of non-ambient sound data within the external device, and wherein the non-ambient sound data corresponds to non-ambient sound regenerated by the external device when the subject image is captured.

7. The reasons for allowance of claims 2 and 23 is substantially similar to claim 1.

8. Claims 32 and 33 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. The prior art fails to teach or suggest wherein in the step of regenerating the image in accordance with the image data recorded in the second recording medium, regenerating the non-ambient sound is performed by reading the audio data from the first recording medium.

Art Unit: 2622

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a) Sakai et al. (US Patent # 5,726,708).

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yogesh K. Aggarwal whose telephone number is (571) 272-7360. The examiner can normally be reached on M-F 9:00AM-5:30PM.

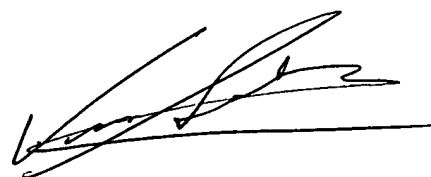
12. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivek Srivastava can be reached on (571)-272-7304. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2622

13. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

YKA

September 15, 2006

A handwritten signature in black ink, appearing to read 'Vivek Srivastava', written over a horizontal line.

VIVEK SRIVASTAVA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600